

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. QUASAR COMMUNICATIONS CORP., Respondent.	DOCKET NO. FCU-04-46
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND
SETTING DEADLINE FOR RESPONSE**

(Issued October 6, 2004)

On September 3, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition asking that the Board review the proposed resolution in Docket No. C-04-79 involving Quasar Communications Corp. (Quasar) and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings, the events to date can be summarized as follows:

On March 15, 2004, Mr. Eutilio Rivera of Clarence, Iowa, submitted a complaint to the Board alleging that his long distance telephone service was changed without his authorization. Board staff identified the matter as C-04-79 and, pursuant

to Board rules, on March 26, 2004, forwarded the complaint to USBI, the billing company identified on the bill from Mr. Rivera's local telephone service provider, for response within ten days.

USBI filed a response with the Board on March 31, 2004, indicating that it is engaged in the business of aggregating records for service providers and transmitting those records to local exchange carriers. USBI indicated that the charges in dispute were submitted by Quasar.

Board staff forwarded the complaint to Quasar on April 29, 2004, for response within ten days. Quasar filed a response with the Board on May 4, 2004, indicating that its records show that the service was authorized by Mr. Rivera on December 22, 2003, that Mr. Rivera had stated that he was the person authorized to make changes in long distance service, and that Mr. Rivera had completed the third-party verification process. USBI stated that it had complied with the legal requirements for submitting a change order. Quasar provided Board staff with a copy of the recording of the verification process and later provided a translation of the verification questions which had been asked in Spanish. Board staff forwarded the recording to Mr. Rivera for his review.

On August 26, 2004, Board staff issued a proposed resolution concluding that slamming had not occurred in this matter. Board staff noted that after listening to the verification recording, Mr. Rivera indicated that he had agreed to service from

Quasar. Board staff indicated that Mr. Rivera had paid the outstanding balance to Quasar and had switched back to his preferred long distance carrier.

In its September 3, 2004, petition, Consumer Advocate asserts that the proposed resolution is incorrect. Consumer Advocate asserts that the verification process confirmed that Mr. Rivera was authorized to make a change in long distance providers, not that he wanted to make a change. Consumer Advocate states that the claimed verification lacks a clear and conspicuous confirmation that the customer had authorized a change in carrier. Consumer Advocate also asserts that certain disputed charges were unauthorized and invalid and that the claimed authorization fails for lack of consideration because Mr. Rivera never received the calling card he was promised.

Consumer Advocate asserts that a civil penalty should be imposed against Quasar to deter future slamming violations. Consumer Advocate requests that the Board docket this complaint for a formal proceeding. Quasar has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date and finds there is sufficient information to warrant further investigation into this matter. The Board will delay establishing a procedural schedule and allow Quasar an opportunity to respond to the allegations raised in Consumer Advocate's petition.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on September 3, 2004, is granted. File C-04-79 is docketed for formal proceedings, identified as Docket No. FCU-04-46.

2. Quasar Communications Corp. is directed to file a response to Consumer Advocate's petition on or before November 4, 2004.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 6th day of October, 2004.